

REMARKS/ ARGUMENTS

The foregoing amendment and the following arguments are provided to impart precision to the claims, by more particularly pointing out the invention, rather than to avoid prior art.

35 U.S.C. § 102(b) Rejections

Examiner rejected claims 1, 3-5, 7-9, and 11-16 under 35 U.S.C. § 102(b) as being anticipated by International Publication No. WO 97/04394 (hereinafter "Drake").

"To anticipate a claims, the reference must teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (Manual of Patent Examining Procedures (MPEP) ¶ 2131.)

Independent claims 1, 5, and 13 of the present application include limitations not disclosed or taught by Drake. As a result, independent claims 1, 5, and 13 are not anticipated by Drake.

In particular, applicant's claims, include the limitation, or a limitation similar there to, of: "in the instructions, replacing a first instruction comprising a target address with a second non-identical instruction having an instruction address in the instructions, the second instruction to transfer control to the test module; . . ." (emphasis added). (Applicant's claim 1).

Drake, however, does not disclose nor suggest the limitation of replacing a first instruction comprising a target address with a second non-identical instruction having an instruction address in the instructions, the second instruction to transfer control to the test module, as claimed by applicant. Rather, Drake, is limited to disclosing transforming an executable program to produce a new executable program. Drake disclosing nothing related to transferring control to a test module.

The preferred embodiment of an applicator program 60 is shown which takes as its input the executable program 16 and performs an obfuscating step 61, a ciphering step 62 and an anti-key press and authentication step 63 (described hereafter) which performs various transformations on the executable program 16 to produce a new executable program 30.

. . .

The newly formed executable 30 (new.exe) can be then stored on disk and the applicator program 60 completed, the new executable 30 replacing the old executable program 16. (emphasis added) (Drake, col. 15, lines 48-50).

Therefore, in view of applicant's independent claims including limitations that are not disclosed nor suggested by Drake, applicant's independent claims are not anticipated by Drake.

In addition, the remaining claims depend from one of the independent claims as discussed above, and therefore include similar limitations, and as a result are also not anticipated by Drake.

CONCLUSION

Applicant respectfully submits the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call John Ward at (408) 720-8300, x237.

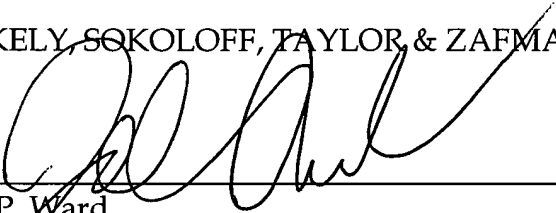
Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN

Date: _____

3/8/04



John P. Ward
Reg. No. 40,216

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8300